

OGC 7-1907

OGC Has Reviewed

MEMORANDUM FOR: Director of Central Intelligence
THROUGH: Deputy Director (Intelligence)
SUBJECT: Exchange of Intelligence Information

1. This memorandum contains recommendations for approval of the Director in paragraph 3.

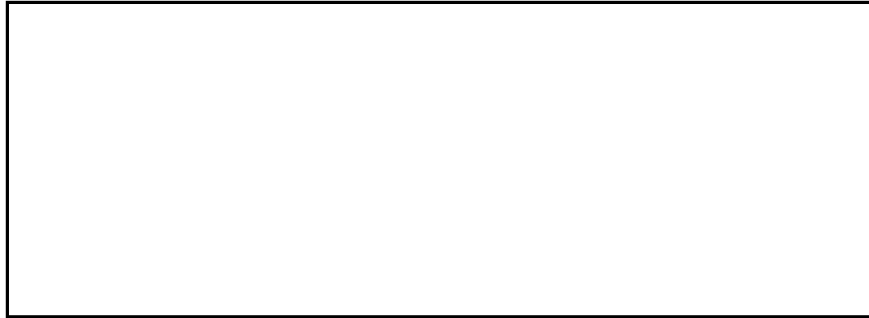
2. The attached memorandum (TAB A) is a detailed review of the history and present status of the exchange of information under the Atomic Energy Act of 1954. To summarize there has been liberalization both statutory in the 1954 amendments to the Act and through administrative action. However, from our point of view the limitations are overly restrictive due to the Commission's interpretations of the Act and the necessity for Commission review of each exchange. The Department of Defense also desires liberalization and is considering both freer interpretation by the Commission and legislation.

3. The Atomic Energy Commission's proposal for legislative amendment, which was made to the Secretaries of State and Defense, is all right insofar as it goes but does not help our particular problem. I recommend that you sign the attached reply (TAB B) to the 13 November letter from the Chairman of the Commission, requesting the opportunity to be represented at any meetings on legislative action. In any subsequent discussions and negotiations I recommend that we seek legislative language specifying areas of information in which CIA would be free to exchange [redacted] [redacted] without the necessity for Atomic Energy Commission review. Specifically we should seek language providing for:

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Att-Tabs A & B
(Tab B-TS 140025-Sep. Cover)
CONCUR

LAWRENCE R. HOUSTON
General Counsel

ROBERT AMORY, JR.
Deputy Director (Intelligence)

The recommendations in
paragraph 3 are approved

ALLEN W. DULLES
Director

OGC:LRH:jeb
cc ✓ DCI
DDCI
ER
DD/I
AD/SI
Legislative Counsel
General Counsel

Approved For Release 2003/04/25 : CIA-RDP80R01731R000100160062-0

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OGC 7-1907b

NOV 1967

MEMORANDUM FOR: Director of Central Intelligence
THROUGH: Deputy Director (Intelligence)
SUBJECT: Exchange of Intelligence Information

1. This memorandum is for information only.

2. You inquired as to the history of legislation affecting the interchange of intelligence information with foreign countries and the present status in the light of proposals to cooperate more closely [redacted] The only intelligence information affected directly by statute is "restricted data" in the atomic energy field. All other intelligence information is controlled by Administration policy set forth in Executive Orders, Executive Directives, National Security Council papers, and subordinate controls.

3. Under the original Atomic Energy Act of 1946 there could be no exchange of information with other nations with respect to the use of atomic energy even for industrial purposes until the Congress declared by joint resolution that effective and enforceable international safeguards against the use of atomic energy for destructive purposes had been established. The definition of "restricted data" included the use of fissionable material for the production of power unless the Atomic Energy Commission determined that any data could be published without adversely affecting the common defense and security. The practical effect of these provisions was to prevent any exchange of information with any foreign power unless the Commission determined that it could be published. The Central Intelligence Agency felt that

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4. A completely new act known as the Atomic Energy Act of 1954 replaced the 1946 act and contained provisions designed to facilitate an appropriate exchange of information with foreign countries. Section 144 provides for communication to other nations of "restricted data" in certain limited categories and only after elaborate formalities are complied with, including the authorization of the President and the negotiation of an agreement for cooperation with the nation or regional defense organization concerned, which agreement must be submitted to the Joint Committee on Atomic Energy for a period of 30 days while Congress is in session.

Section 142d provides for the removal from the "restricted data" category of such data as the Commission and the Department of Defense jointly determine relate primarily to the military utilization of atomic weapons and which the Commission and the Department of Defense jointly determine can be adequately safeguarded as defense information. However, no such data so removed can be given to any nation or regional defense organization while it remains defense information except in those cases where an agreement for cooperation has been entered into as outlined above.

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5. As a practical matter, I am informed that all of these exchange authorities are lumped into one procedure which for exchange purposes with foreign nations passes normally through the Nuclear Energy Division of our Office of Scientific Intelligence. Under this handling all the information involved, whether military or under our authority, must be checked with the Atomic Energy Commission to determine if it encroaches upon nonreleasable "restricted data" of which they are the sole judge. Considerable time delays have been encountered in this procedure and the Atomic Energy Commission has interpreted the above agreement so rigidly as to severely restrict the exchange of information.

6. We have received a copy of the Atomic Energy Commission's proposal to State and Defense for a change in section 144b of the Atomic Energy Act, which the Commission states is designed to meet the National Security Council's action for revision of the act with a view to facilitating increased sharing with selected allies of scientific information. The Commission's proposal adds two categories to the "restricted data" which can be exchanged under section 144b by the Department of Defense. These have to do with the design or fabrication of atomic weapons and the military applications of atomic energy including research and development. The original section 144b severely limited exchange of information on design or fabrication of atomic weapons and required joint judgment of the Commission and the Department of Defense, so the Commission's proposal does liberalize exchange of "restricted data" and requires consultation with the Commission on the new categories rather than joint judgment between Defense and the Commission. The cooperation still must be undertaken pursuant to an agreement entered into in accordance with section 123 of the act.

7. This Atomic Energy Commission proposal has little direct effect on the CIA exchange of information [redacted] but by increasing the area for exchange by Defense it may well increase the amount of information CIA would have to clear with Defense. According to our latest information, Defense intends to approach this matter both by a more liberal interpretation of the present law and by subsequent changes to the law. Defense believes there is sufficient latitude in the present wording of the law to permit most of the desired exchanges of information if the Commission chooses, on the basis of new policy, to relax its present rules on

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STAT "important" weapon design data. The Commission may not agree that liberalization can be achieved by interpretation of the present act, or AEC and Defense may agree that an amendment of the act would be desirable as an overt demonstration of our desire for closer cooperation. [redacted] In either case changes may be requested during the 85th Congress.

8. The logical places for change would be in sections 142d and e, which provide for the removal of information from the "restricted data" category on the joint determination of the Commission and Defense or the Commission and the Director of Central Intelligence. From our point of view any such change should allow CIA to transmit data without specific approval in each instance by the AEC. The Deputy Director (Intelligence) does not recommend Agency action to obtain more liberal interpretation of the present law by a new joint agreement with the AEC under section 142e. A proposal is pending before the Commission that should permit a limited exchange of data [redacted] pertinent to the measurement of the yields of Soviet tests. This would meet the immediate needs of the Deputy Director (Intelligence) and they can concurrently obtain the benefit of any more liberal interpretation of the law obtained by the Department of Defense.

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9. The Deputy Director (Intelligence) feels, and I agree, that our past experience demonstrates that the exchange for intelligence purposes should not be left to joint determination with the Commission and us and that the law should be amended to give broad guidelines so that CIA and Defense can release information without time-consuming AEC review. This could be done by authorizing a procedure that would permit CIA or Defense to clear a given category of information that the AEC wants and then to release similar information subsequently on its own authority. You have here, however, somewhat the same problem in regard to how AEC would interpret the word similar. I believe it would be preferable if we could specify the areas of information in the act itself. The DD/I suggests that changes which would be consistent with the intended broadened cooperation [redacted] [redacted] should materially increase the validity of Agency estimates would provide for:

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SIGNED

LAWRENCE R. HOUSTON
General Counsel

TAB B - TS 140025 - UNDER SEPARATE COVER

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM

UNCLASSIFIED	CONFIDENTIAL	SECRET
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CENTRAL INTELLIGENCE AGENCY
OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	INITIALS	DATE
1	Mr. HOUSTON		
2	ER	2/11/58	12/10
3			
4			
5			
6			

ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks:

Larry: The Director agrees with the contents of your proposed letter to Lewis Strauss but said he would prefer to have you handle this through Traynor, and further, if a Drafting Group is formed possibly we could become a member from "the Intelligence angle."

all other cys returned to gen. counsel.

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.

DATE

9 Dec 57

Approved For Release 2003/04/25 : CIA-RDP80R01731R000100160